

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SM Kids, LLC, as successor-in-interest to
Stelor Productions, LLC,

Plaintiff,

-against-

Google LLC et al.,

Defendants.

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1:18-cv-02637 (LGS) (SDA)

ORDER

STEWART D. AARON, United States Magistrate Judge:

Before the Court is Plaintiff's Letter Motion for a protective order to limit the fact deposition of Stephen Garchik and the Rule 30(b)(6) deposition of SM Kids, LLC. (Letter Motion, ECF No. 178.) Following a telephone conference with the parties, and for the reasons further stated on the record, it is hereby Ordered that Plaintiff's Letter Motion is GRANTED IN PART and DENIED IN PART as follows:

1. As Plaintiff indicated during the conference that it will withdraw its motion with respect to Topics 7 and 8, Plaintiff's letter motion with respect to those topics is denied as moot.
2. Plaintiff's motion is denied with respect to Topics 1, 2 and 6. *See Auto. Rentals, Inc. v. Keith Huber, Inc.*, No. 10-CV-00385 (LG) (RHW), 2011 WL 13112088, at

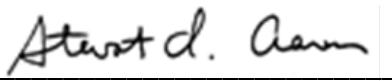
*1 (S.D. Miss. June 10, 2011) ("as a general rule, counsel's objections to questions regarding the factual basis of allegations in the complaint are improper"); *Smith v. Gen. Mills, Inc.*, No. C2 04-705, 2006 WL 7276959, at *3 (S.D. Ohio Apr. 13, 2006) (Rule 30(b)(6) notice of deposition seeking factual bases for another party's claims or

defenses was proper) (citing cases); *Lisa Frank, Inc. v. Orb Factory Ltd.*, No. CV-15-433-(TUC) (DCB), 2017 WL 6000477, at *7 (D. Ariz. Sept. 21, 2017) (discussing 30(b)(6) deposition topic regarding likelihood of confusion); *Phoenix Entm't Partners, LLC v. Dr. Fofa LLC*, No. 2:17-CV-01270, 2018 WL 929685, at *5 (D.S.C. Feb. 16, 2018) (same).

3. Topic 3 is stricken for the reasons stated on the record.
4. Plaintiff's motion is granted and part and denied in part with respect to Topics 11-14. Defendants may solicit testimony regarding Plaintiff's theory or theories of damages.
5. The parties are directed to meet and confer with respect to the issue raised in Section IV of Plaintiff's motion (regarding testimony with respect to events prior to 2018) and, no later than Tuesday, February 9, 2021, shall file a joint letter setting forth any remaining issues. The joint letter also shall address whether the parties have reached a stipulation with respect topic 10.

SO ORDERED.

DATED: New York, New York
 February 5, 2021



STEWART D. AARON
United States Magistrate Judge